

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TERRI M. YATES,

Plaintiff,

vs.

SYMETRA LIFE INSURANCE COMPANY,

Defendant.

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No.:

NOTICE OF REMOVAL

Defendant Symetra Life Insurance Company, by and through its attorneys timely file this Notice of Removal pursuant to 28 U.S.C. § 1331, 29 U.S.C. § 1132(e) and 28 U.S.C. § 1441(a), (b) and (c) removing the above-captioned action to the United States District Court for the Eastern District of Missouri from the Phelps County Circuit Court, and avers as follows:

1. The above-captioned action was commenced by Plaintiff in the Circuit Court of Phelps County, Missouri, on or about January 9, 2019. A true and correct copy of the Complaint is attached hereto as Exhibit “A.”

2. The Complaint was served on Symetra Life Insurance Company within thirty days of the date of the filing of this Notice.

3. In the Complaint, Plaintiff seeks accidental death benefits under a group policy issued by Symetra to Phelps County Bank. A copy of the Group Accident Policy is attached as Exhibit “B.”

4. The Group Policy provide life insurance and accidental death & dismemberment insurance coverage to eligible employees of Phelps County Bank and funds a portion of its

employee welfare benefit plan. The coverage is “non-contributory” meaning that the employer paid 100% of the premiums for the insurance.

5. Based on the foregoing, the claims in this lawsuit are subject to and governed by the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. §§ 1001, et seq.

6. A cause of action filed in state court seeking recovery of benefits under an ERISA-governed employee welfare benefit plan is removable to federal court pursuant to 28 U.S.C. § 1441 (c) as an action arising under a federal law. *See Metropolitan Life Insurance Company v. Taylor*, 481 U.S. 58 (1987); *Pilot Life Insurance Company v. Dedeaux*, 481 U.S. 41 (1987).

7. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 1132 (e). As a civil action founded upon a claim of right arising under the laws of the United States, this action may be removed to this court pursuant to the provisions of 28 U.S.C. § 1441(a), (b) and (c).

8. This Notice of Removal is being filed within thirty (30) days of service of the Petition/Complaint on Defendant, as required by 28 U.S.C. § 1446(b).

9. Copies of all pleadings, process or orders served on Defendant are attached to this Notice as required by 28 U.S.C. § 1446(a).

10. All fees required by law in connection with this notice have been filed by Defendant.

WHEREFORE, Symetra Life Insurance Company removes the above-captioned action to the United States District Court for the Eastern District of Missouri from the Phelps County Circuit Court.

Dated: January 31, 2019

By: /s/ Jason D. Johnson
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CERTIFICATE OF SERVICE

The undersigned counsel for Defendant hereby certifies that on January 31, 2019, a true and correct copy of the Notice of Removal of Plaintiff's Complaint was served by first class mail, postage prepaid, to the following:

David A. Osborne
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Rolla, MO 65402-0248

/s/ Jason D. Johnson